

**FILED**

FEB 11 2008

DISCIPLINARY COMMISSION OF THE  
SUPREME COURT OF ARIZONA  
BY *[Signature]*

**BEFORE THE DISCIPLINARY COMMISSION  
OF THE SUPREME COURT OF ARIZONA**

IN THE MATTER OF A MEMBER  
OF THE STATE BAR OF ARIZONA,

**EDMUND D. KAHN,**  
**Bar No. 002152**

RESPONDENT.

Nos. 06-1221, 05-0749, 05-0778

**DISCIPLINARY COMMISSION  
REPORT**

This matter came before the Disciplinary Commission of the Supreme Court of Arizona on January 12, 2008, pursuant to Rule 58, Ariz.R.Sup.Ct., for consideration of the Hearing Officer's Report filed October 10, 2007, recommending a six-month and one-day suspension, compliance with Rule 72, one year of probation with the State Bar's Law Office Management Assistance Program (LOMAP), completion of the State Bar's Professional Ethics Enhancement Course prior to reinstatement, and costs. Respondent filed an objection and requested oral argument. Respondent and counsel for the State Bar were present.

Respondent asserts that he has committed no violations involving moral turpitude and the record supports only a sanction of informal reprimand or censure. Respondent further asserts that when he filed his Rule 72(e) Affidavit in Arizona, his information was incorrect, but he did not make deliberate falsehoods about his membership status in New York or New Mexico. Respondent maintains that a suspension at his age would have the same effect as disbarment and that the recommended sanction does not fulfill the purposes of discipline.

1 The State Bar concurs with the Hearing Officer's findings and conclusions and  
2 urges the Commission to impose a sanction of no less than six-months and one-day. The  
3 State Bar asserts that Respondent should be required to demonstrate rehabilitation and  
4 fitness to practice through formal reinstatement proceedings.

### 5 Decision

6 The eight members<sup>1</sup> of the Disciplinary Commission unanimously recommend  
7 accepting and incorporating the majority of the Hearing Officer's findings of fact and  
8 conclusions of law but modify *de novo* the recommended sanction to reflect a three-year  
9 suspension, compliance with Rule 72, one year of probation (LOMAP) upon reinstatement  
10 with specific terms to be determined at the time of reinstatement, completion of the  
11 Professional Ethics Enhancement Program (EEP) prior to reinstatement, and costs of these  
12 disciplinary proceedings.<sup>2</sup>

13 The Commission determined that on the facts in this matter, specifically  
14 Respondent's serious and long-term misrepresentations regarding his admission status, his  
15 repeated false statements made under oath to courts regarding his status, his complete  
16 failure to understand the egregiousness of his misconduct in regards to the client in Count  
17 Three, and his lack of remorse, a three-year suspension is warranted and necessary to  
18 protect the public.

19 The Commission further determined that the Hearing Officer erred in concluding  
20 that mitigating factor 9.32(a) absence of disciplinary record is present. *See* Hearing  
21 Officer's Report, p. 28. In addition, the Commission notes that it is inappropriate to  
22 consider the adverse impact on the individual respondent of a sanction needed to protect  
23

24  
25  
26 <sup>1</sup> Commissioner Baran did not participate in these proceedings.

<sup>2</sup> A copy of the Hearing Officer's Report is attached as Exhibit A.

the public, the profession, the administration of justice and instill public confidence in the Bar's integrity. See *In re Shannon*, 179 Ariz. 52, 876 P.2d 548 (1994).

RESPECTFULLY SUBMITTED this 11<sup>th</sup> day of February 2008.

Daisy Flores

Daisy Flores, Vice-Chair  
Disciplinary Commission

Original filed with the Disciplinary Clerk  
this 11<sup>th</sup> day of February, 2008.

Copy of the foregoing mailed  
this 11<sup>th</sup> day of February, 2008, to:

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/mps